IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE FIFTEENTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 8291 of 2005

Between:

Transmission Corporation of Andhra Pradesh Ltd.,

Kadapa rep.by its Suptd., Engineer, TL & SS Circle,
Mr.M.Krishna Murthy, S/o.Sri N.Balaiah, R/o.Kadapa.

..... PETITIONER

AND

The Employees Provident Fund Organisation,

Sub-Regional office, 1/30, R.S.Road, Kadapa

rep. by its Assistant Provident Fund Commissioner.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an order direction or writ particularly one in the nature of writ of mandamus or any other appropriate writ declaring the order in A.T.A. No.278(1)/2005 on the file of the E.P.E. Appellate Tribunal, New Delhi in so far as directing the petitioner to deposit 50% of the determined amount in pursuance of the proceedings of the respondent in order NO.AP/SRO/CP/AP/43231/ENF.III/SRO/CDP/2005/848 dated: 11-3-2005 as illegal and consequently set aside the same and pass such other order or orders in the interest of justice.

Counsel for the Petitioner: MR.G.VIDYASAGAR

Counsel for the Respondent: MR.R.N.REDDY

The Court made the following :

THE HON'BLE MS. JUSTICE G.ROHINI

WRIT PETITION NO.8291 OF 2005

ORDER:

This writ petition is filed aggrieved by the order passed by the Employees Provident Fund Appellate Tribunal at New Delhi in A.T.A.No.278(1)/2005 dated 23-3-2005 whereunder the Tribunal entertained the Appeal filed by the petitioner against the determination made under Section 7-A of the Employees Provident Fund and Miscellaneous Provisions Act, 1952 (for short, 'the Act') subject to the condition of depositing 50% of the determined amount.

The contention of the petitioner is that having regard to the facts and circumstances of the case and having regard to the nature of the controversy involved, the Tribunal ought to have entertained the Appeal completely waiving the amount to be deposited. I do not find any substance in the said contention. It is not in dispute that as per the provisions of Section 7-O of the Act, no Appeal by the employer shall be entertained by a Tribunal unless he has deposited 75% of the amount due from him

as determined under Section 7-A of the Act. It is true that the proviso to Section 7-O of the Act empowers the Tribunal for reasons to be recorded in writing to waive or reduce the amount to be deposited. In the case on hand, the Tribunal having exercised such discretion thought it fit to direct deposit of 50% instead of 75%. Since the Appellate Tribunal having taken a liberal view, reduced the amount from 75% to 50%, I do not see any justifiable reason to interfere with such discretionary order.

However, having regard to the facts and circumstances of the case, I deem it appropriate to grant some more time to comply with the condition imposed under the impugned order.

Accordingly, the Writ Petition is disposed of permitting the petitioner to comply with the impugned order dated 23-03-2005 within a period of four weeks from today. If such amount is deposited within the time granted above, the Appeal shall be entertained and the operation of the order passed under Section 7-A of the Act shall remain stayed during the pendency of the Appeal. No costs.

_____

15th April, 2005.

gbs

... REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1) The Assistant Provident Fund Commissioner,

Employees Provident Fund Organisation,

Sub-Regional office, 1/30, R.S.Road, Kadapa.

2) CD copies